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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/518,501	03/03/2000	Mark D Erion	030727.0013.CIP1	7608

36183 7590 09/26/2003

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EXAMINER

MCKENZIE, THOMAS C

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 09/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Interview Summary

Application No.

09/518,501

Applicant(s)

ERION ET AL.

Examiner

Thomas McKenzie Ph.D.

Art Unit

1624

All participants (applicant, applicant's representative, PTO personnel):

(1) Thomas McKenzie Ph.D.

(3) Mukund Shah.

(2) Mark Erion, Ph.D.

(4) Jessica Wolff.

Date of Interview: 10 September 2001.

Type: a) ☐ Telephonic b) ☐ Video Conference  
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: all.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Examiner's indefiniteness, lack of written description, and non-enablement rejections based on the term "M is selected from the group that attached to PO32-, P2O63-, P3O94- or P(O)(NHR6)O- is a biologically active agent but is not an FBPase inhibitor" in claims 1-3, 7, 9-18, 20-46, 48-53, 150-157, 165-166, and 171-173. Applicants described the technology of the invention, data, and how the invention is applied. The Examiners expressed concerns regarding PTO policy on functional language in light of the University of Rochester Cox 2 inhibitor district court decision. Applicants distinguished that case and emphasized the amount of data taught in the current application. Examiner McKenzie expressed that he has no doubt that there is allowable subject matter, but that it is more an issue of the breadth of the claims. Examiner Shah indicated that if the Applicants submitted evidence and arguments that the claims do meet the requirements of definiteness, written description, and enablement, he will further evaluate the functionality issue and ascertain if quality control would consider these claims as meeting the functional guidelines based on the evidence and arguments presented. 2. Examiner's indefiniteness, lack of written description, and non-enablement rejections for the term "prodrug" in claims 1-18, 20-46, 48-57, 150-157, and 165. Applicants discussed that many issued patents use this language in the claims. Examiner Shah indicated that this language does meet the requirements for definiteness, written description, and enablement. 3. Examiner's indefiniteness rejection of claims 155-157 and 166 based on the term "oxidizing agent". Examiner Shah indicated that this language does meet the requirement of definiteness.